

### REMARKS

Claims 1, 4-15, 17-18 and 20-47 are pending in the application. By this paper, claim 1 has been amended. No new matter is added by this amendment. Reconsideration and allowance of claims 1, 4-15, 17-18 and 20-47 are respectfully requested.

#### Anticipation Rejection under 35 U.S.C. § 102(b)

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent number 4,367,474 to Schaubert, et al ("Schaubert"). According to the office action, Schaubert discloses in FIG. 11 a frequency selective surface (FSS) having an effective sheet capacitance which is variable to control resonance of an artificial magnetic conductor (AMC).

Claim 1 has been amended to recite "a frequency selective surface (FSS) *including voltage variable capacitive elements to give the FSS* an effective sheet capacitance which is variable to control resonant frequency of the AMC" (*emphasis added*). Support for this amendment may be found at page 19, lines 19 to page 15, line 7 of the application as filed.

The prior art of record fails to disclose this limitation. Since claim 1 recites limitations nowhere shown by in the prior art of record, this reference can not anticipate the invention defined by claim 1.

#### Double Patenting Rejection

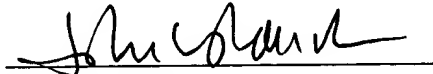
Claims 1, 4-15, 17, 18 and 20-47 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-34 of U.S. patent number 6,525,695. Further, claims 1, 4-15, 17, 18 and 20-47 stand provisionally rejected under the doctrine of obviousness-type double patenting as being unpatentable over claims 1-33 of copending application number 10/246,198.

By this paper, (1) a Terminal Disclaimer to Obviate a Double Patenting Rejection Over a Prior Patent and (2) a Terminal Disclaimer to Obviate a Provisional Double Patenting Rejection Over a Pending Second Application are submitted to obviate the rejections under the doctrine of obviousness-type double patenting. Accordingly, withdrawal of the double patenting rejections of claims 1, 4-15, 17, 18 and 20-47 is respectfully requested.

Application no. 09/845,666  
Amendment dated: March 24, 2004  
Reply to office action dated: September 25, 2003

With this response, the application is believed to be in condition for allowance. Should the examiner deem a telephone conference to be of assistance in advancing the application to allowance, the examiner is invited to call the undersigned attorney at the telephone number below.

Respectfully submitted,



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